

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 GREG RYDEEN,) Case No. CV 15-03629 DDP (Ex)
12)
13 Plaintiff,) **ORDER GRANTING DEFENDANT'S MOTION**
14) **TO DISMISS**
15 v.)
16)
17 COUNTY OF LOS ANGELES,)
18) [Dkt. 12]
19 Defendants.)
20

21 Presently before the court is Defendant's Motion to Dismiss
22 claims for violation of Defendant's Fourth Amendment rights.
23 Having considered the parties' submissions, the court grants the
24 motion and adopts the following Order.
25

26 **I. Background.**

27 On February 25, 2014, Plaintiff was arrested for alleged
28 inappropriate touching of a woman. (Complaint ¶ 13.) Plaintiff
was booked, classified, and incarcerated in the general population
at the Los Angeles County jail awaiting trial. (Id. ¶ 14.)
Beginning in June 2014, while Plaintiff was still incarcerated,
Plaintiff alleges that the deputies in charge of the jail told
other inmates about Plaintiff's charges. (Id. ¶ 15-16.)

1 Soon after, Plaintiff was attacked by fellow inmates who knew
2 of the charges against him. (Compl. ¶ 16.) After the attack,
3 Plaintiff was given a red armband and a special classification, but
4 he was still housed in the general population. (Id. at ¶ 17.)
5 Plaintiff was informed that a "green light" had been ordered and
6 that he was a target for other inmates. (Id.) On June 20, 2014,
7 Plaintiff alleges that he was placed on a "mainline" with other
8 inmates being transported to court, in violation of his special
9 classification. Id. at ¶ 18.) That same day, Plaintiff was
10 attacked and injured by fellow inmates for a second time. (Id.)
11 Plaintiff alleges that deputies did not attempt to help him during
12 the attack. (Id. at ¶ 19.)

13 Plaintiff's Complaint alleges causes of action for civil
14 rights violations, negligence, intentional infliction of emotional
15 distress, and assault and battery. Defendant now move to dismiss
16 any constitutional claims premised upon the Fourth Amendment, as
17 opposed to the Fourteenth Amendment.

18 **II. Legal Standard.**

19 A complaint will survive a motion to dismiss when it contains
20 "sufficient factual matter, accepted as true, to state a claim to
21 relief that is plausible on its face." Ashcroft v. Iqbal, 556 U.S.
22 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544,
23 570 (2007)). When considering a Rule 12(b)(6) motion, a court must
24 "accept as true all allegations of material fact and must construe
25 those facts in the light most favorable to the plaintiff." Resnick
26 v. Hayes, 213 F.3d 443, 447 (9th Cir. 2000). Although a complaint
27 need not include "detailed factual allegations," it must offer
28 "more than an unadorned, the-defendant-unlawfully-harmed-me

1 accusation." Iqbal, 556 U.S. at 678. Conclusory allegations or
2 allegations that are no more than a statement of a legal conclusion
3 "are not entitled to the assumption of truth." Id. at 679. In
4 other words, a pleading that merely offers "labels and
5 conclusions," a "formulaic recitation of the elements," or "naked
6 assertions" will not be sufficient to state a claim upon which
7 relief can be granted. Id. at 678 (citations and internal
8 quotation marks omitted).

9 "When there are well-pleaded factual allegations, a court should
10 assume their veracity and then determine whether they plausibly
11 give rise to an entitlement of relief." Id. at 679. Plaintiffs
12 must allege "plausible grounds to infer" that their claims rise
13 "above the speculative level." Twombly, 550 U.S. at 555.
14 "Determining whether a complaint states a plausible claim for
15 relief" is a "context-specific task that requires the reviewing
16 court to draw on its judicial experience and common sense." Iqbal,
17 556 U.S. at 679.

18 **III. Discussion.**

19 Plaintiff's Complaint does not indicate whether he had been
20 arraigned by the time he was assaulted by fellow inmates in June.
21 By that time, however, Plaintiff had been incarcerated for
22 approximately four months. Plaintiff does not appear to dispute
23 that he had been arraigned by the time of the assaults, and the
24 court assumes as much for purposes of this motion. The question
25 before the court, then, is whether a post-arraignment detainee such
26 as Plaintiff may bring claims under the Fourth Amendment, as
27 opposed to a due process claim under the Fourteenth Amendment.
28

1 "The custodial continuum runs through the initial arrest or
2 seizure, post arrest but pre-charge or pre-hearing custody,
3 pretrial detention, and post-conviction incarceration." Pierce v.
4 Multnomah County, 76 F.3d 1032, 1043 (9th Cir. 1996). The
5 constitutional basis for a detainee's claim will differ based on
6 the plaintiff's status at the time of the alleged violation. See,
7 e.g., Morales v. Sacramento County Sheriff's Dep't, No. 13-cv-00414
8 DAD, 2013 WL 5773121 at *3 (E.D. Cal. Oct. 24, 2013).

9 In Graham v. Connor, the plaintiff brought a civil rights
10 action for injuries sustained when law enforcement officers used
11 physical force against him during an investigatory stop. Graham v.
12 Connor, 490 U.S. 386, 388 (U.S. 1989). The Supreme Court held that
13 claims for excessive use of force "in the course of making an
14 arrest, investigatory stop, or other 'seizure' of [plaintiff's]
15 person . . . are properly analyzed under the Fourth Amendment's
16 'objective reasonableness' standard, rather than under a
17 substantive due process standard." Id. at 388. The Court also
18 declined to address whether the Fourth Amendment's protection
19 extends beyond the end of an arrest, while noting that "the Due
20 Process Clause protects a pretrial detainee from the use of
21 excessive force that amounts to punishment." Id. at 394-95.

22 In Pierce, the plaintiff alleged that the defendants violated
23 her Eighth and Fourth Amendment rights by detaining her for four
24 hours for identification following a citation for boarding a train
25 without proof of payment of fare, and for excessive force during
26 that detention. Pierce, 76 F.3d at 1035. Interpreting Graham, the
27 Ninth Circuit agreed with other precedent that "applies the Fourth
28 Amendment standard to assess the constitutionality of the duration

1 of or legal justification for a prolonged warrantless, post-arrest,
2 pre-arraignment custody." (Id. at 1043 (emphasis and citations
3 omitted)). The court therefore held that the "Fourth Amendment
4 sets the applicable constitutional limitations on the treatment of
5 an arrestee detained without a warrant up until the time such
6 arrestee is released or found to be legally in custody based upon
7 probable cause for arrest." Id. at 1043.

8 In Gibson v. County of Washoe, the widow of a decedent brought
9 a § 1983 claim against the County, the sheriff, and a number of the
10 sheriff's deputies who were on duty at the jail when her husband
11 died from a heart attack while in custody on the night of his
12 arrest. Gibson v. County of Washoe, 290 F.3d 1175, 1183-84 (9th
13 Cir. 2002). The Ninth Circuit looked to Graham and Pierce and held
14 that Graham "explicates the standards applicable to a pretrial
15 detention excessive force claim in this circuit," and that "the
16 Fourth Amendment sets the 'applicable constitutional limitations'
17 for considering claims of excessive force during pretrial
18 detention." Gibson, 290 F.3d at 1197 (quoting Pierce, 76 F.3d at
19 1043); see also Lolli v. Cty. of Orange, 351 F.3d 410, 418-19 (9th
20 Cir. 2003)(holding that "the Fourth Amendment provides the proper
21 framework for Lolli's excessive force claim").

22 Plaintiff argues here, essentially, that, notwithstanding the
23 Pierce court's pronouncement that the Fourth Amendment applies "up
24 until the time [a plaintiff] is released or found to be legally in
25 custody" and reference to "pre-arraignment custody," the Gibson
26 court's later statement that the Fourth Amendment applies to claims
27 "during pretrial detention" allows Plaintiff to maintain a Fourth
28

1 Amendment claim based on facts occurring even after he was
2 arraigned. Pierce, 76 F.3d at 1043; Gibson, 290 F.3d at 1197.

3 Several district courts have considered, and rejected, the
4 position put forth by Plaintiff. In 2008, the court in Henderson
5 v. City and Count of San Francisco, the court concluded, after a
6 thorough analysis of Pierce, Gibson, and Lolli, that "the Due
7 Process Clause of the Fourteenth Amendment alone governs the use of
8 force against a prisoner during the period between arraignment and
9 conviction." Henderson v. City and County of San Francisco, No.
10 C05 0234 VRW/WAF, 2007 WL 2778682, at *1 (N.D. Cal. Sept. 21,
11 2007). In so doing, the court explicitly rejected the argument
12 Plaintiff raises here. "If we were to ignore its factual context,
13 Gibson's statement that the Fourth Amendment applies to 'claims of
14 excessive force during pretrial detention' might be read broadly to
15 govern pretrial detention both before and after arraignment.
16 However, such a reading would be inconsistent with Gibson's
17 explicit reliance on Pierce, the language and logic of which
18 clearly distinguished between pre-and post-arraignment detention,
19 and with the fact that Gibson did not involve the post-arraignment
20 use of force." Id. at *2. The court further concluded that
21 "Gibson and Lolli do little to undermine Pierce's suggestion that
22 the Fourth Amendment's protections against unreasonable seizure end
23 once a detainee is 'found to be legally in custody based upon
24 probable cause for arrest.'" Id. at *3.

25 In Leialoha v. MacDonald, the family of a decedent brought a §
26 1983 claim after a post-arraignment detainee died while attempting
27 to escape a prison transportation vehicle. Leialoha v. MacDonald,
28 No. CIV. 07 00218ACKKSC, 2008 WL 2736020, at *2-3 (D. Haw. July 11,

1 2008). Referring to Lolli, Gibson, and Pierce, the court stated
2 that "[w]hile these cases stand for the proposition that pre-
3 arraignment, pretrial detainees are afforded Fourth Amendment
4 protections against excessive force, they do not support
5 Plaintiffs' contention that . . . a post-arraignment detainee[] is
6 entitled to those same protections." Leialoha, 2008 WL 2736020, at
7 *6. The Leialoha court noted that other courts, including
8 Henderson, had reached the same conclusion. Id. One of the other
9 cases cited by the Leialoha court, Grinage v. Leyba, involved a
10 plaintiff who testified that he had been in custody for two months
11 at the time of an alleged constitutional violation, suggesting that
12 he was a post-arraignment detainee. Grinage v. Leyba, No.
13 2:06 CV 0835 RLH-GWF, 2008 WL 199720, at *2 (D. Nev. Jan. 17,
14 2008). Thus, the court concluded that the Due Process Clause of
15 the Fourth Amendment provided the appropriate constitutional
16 framework for the plaintiff's excessive use of force claim. Id. at
17 *4.

18 Plaintiff here does not address Henderson, Leialoha, Grinage,
19 or any of the other cases applying only a Fourteenth Amendment
20 standard to a post-arraignment, pre-trial detainee's constitutional
21 claims.¹ This court agrees with the well-reasoned decision in
22 Henderson, and, as did the Henderson court, rejects the argument
23 that Gibson somehow expanded the applicability of the Fourth
24 Amendment to a point on the custodial continuum beyond arraignment.

25 **IV. Conclusion**

26
27 ¹ Plaintiff does make reference to an earlier Order in the
28 Henderson case, but not the Order in which the court addressed the
precise argument Plaintiff raises before this court.

1 For the reasons stated above, Defendant's Motion to Dismiss is
2 GRANTED. Any amended complaint shall be filed within fourteen days
3 of the date of this Order.

4
5
6
7 IT IS SO ORDERED.

8 Dated: June 6, 2016
9



DEAN D. PREGERSON
United States District Judge